

Case No. 14-60796

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

ENTERGY MISSISSIPPI, INCORPORATED,

Petitioner Cross-Respondent

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent Cross-Petitioner

Unopposed Motion for Level 2 Extension of Time to File Petitioner's Brief

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Counsel for Petitioner – Cross Respondent

In accordance with 5th Cir. R. 26.2, 27.1, and 31.4.3.2, Entergy Mississippi, Inc. (hereinafter “Entergy” or “Petitioner”) requests a forty (40) day extension of time, from Monday, February 9, 2015 up to and including Monday, March 23, 2015, within which to file its Original Brief. In support of this Motion, Entergy respectfully represents:

I.

Pursuant to Fed. R. App. P. 26(c) and 31(a)(1), and in accordance with this Court’s Briefing and Scheduling Order, Petitioner’s brief must be filed and served on or before February 9, 2015.

II.

The Court may grant a party’s request for extension of time to file a brief upon a showing of “more than ordinary good cause.” 5th Cir. R. 31.4.2 and Fed. R. App. P. 26(b). This condition is satisfied – as more fully explained and supported herein.

III.

Lead Counsel for Entergy, G. Phillip Shuler, has a previously scheduled rotator cuff shoulder surgery on January 19, 2015. This is a complex reconstructive surgery for a complete rotator cuff tear, which is expected to incapacitate lead counsel for at least 30 days (if not more) and necessitate extensive physical therapy for up to six months. As a result, lead counsel will be

able to perform little, if any, substantive work for at least 30 days following the surgery.

IV.

Given the complexity of the subject matter of this appeal and the volume of the record, the necessary briefing cannot be completed in advance of lead counsel's surgery. The primary issue in this appeal is whether certain Entergy employees qualify as statutory supervisors exempt from coverage by the National Labor Relations Act. This issue, which has been litigated for several decades in numerous jurisdictions, is not only complex but also exceedingly important to the entire energy industry. Moreover, the record in this case is extremely voluminous, spanning more than six volumes and 3500 pages (exclusive of the more than 250 exhibits). The record includes transcripts from the hearing conducted by Region 15 of the National Labor Relations Board on September 17-19, October 7-8 and 15-16, and November 11-12, 2003, as well as a transcript from a supplemental hearing conducted by Region 15 on December 11-12, 2006. As a result of all of the foregoing, and given the importance of this case, Entergy requests a 40-day extension of time to prepare a comprehensive and thorough Brief.

V.

This is Entergy's first request for an extension of time to file their Original Brief. Counsel for Respondent, the National Labor Relations Board, has been contacted and does not oppose this requested extension.

VI.

Accordingly, for the foregoing reasons, Entergy Mississippi, Inc. requests that this Court issue an order granting a 40-day extension of time, from Monday, February 9, 2015 to Monday, March 23, 2015, for Petitioner Cross-Respondent to file and serve its Original Brief.

Respectfully submitted,

/s/ Sarah Voorhies Myers

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served via electronic means through transmission facilities from the Court upon those parties authorized to participate and access the Electronic Filing System for this Court in the above-captioned action, including:

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